

EXPLANATORY MEMORANDUM TO
THE MARRIAGES AND CIVIL PARTNERSHIPS (APPROVED PREMISES)
(AMENDMENT) REGULATIONS 2021

2021 No. 775

1. Introduction

- 1.1 This explanatory memorandum has been prepared by the Ministry of Justice and is laid before Parliament by Command of Her Majesty.
- 1.2 This memorandum contains information for the Joint Committee on Statutory Instruments.

2. Purpose of the instrument

- 2.1 This instrument amends the Marriages and Civil Partnerships (Approved Premises) Regulations 2005 ('the 2005 Regulations') to permit civil marriage and civil partnership proceedings to take place outdoors, in "linked outdoor areas". Following amendments made by these Regulations, the definition of premises which may receive approval under the 2005 Regulations means "built premises together with linked outdoor areas".
- 2.2 "Built premises" means a permanently immovable structure comprising at least a room, or any boat or other vessel which is permanently moored. "Linked outdoor areas" means any areas within the boundary of the land of which the built premises form part, which are not indoors and which may be used in common with the built premises. Currently, only built premises are capable of approval for the solemnization of civil marriages and the formation of civil partnerships ("proceedings" as defined in the 2005 Regulations). Before holding proceedings in the linked outdoor areas, confirmation must be secured from the superintendent registrar that the proposed location for the proceedings is 'seemly and dignified'. Other conditions must also be met, including that the location of the proceedings must be identifiable by description and for suitable notices to be displayed giving directions to the location of the proceedings.
- 2.3 New applications for approval or renewal of approval will be required to include a plan showing the entire premises, including the boundaries of the linked outdoor areas (but not the locations at which proceedings will take place).
- 2.4 Transitional provision also provides that (1) that existing Approved Premises will be permitted to utilise linked outdoor areas for proceedings without the need to first obtain re-approval or to provide revised plans showing the boundaries of the linked outdoor areas; and (2) applications which have already been submitted do not need to resubmit revised plans showing the boundaries of the linked outdoor areas.
- 2.5 This approach is to preserve the dignity of the proceedings and also to ensure that there is no new administrative burden placed on existing venues or on approval authorities. This instrument is a temporary measure which will expire at the end of 5 April 2022.

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

- 3.1 This instrument is subject to the negative resolution procedure and will breach the 21-day rule for laying in Parliament. The reasons for this are as follows.
- 3.2 The weddings industry has been severely impacted by the legal restrictions on activities and on social gatherings imposed in response to the Covid-19 pandemic. Many thousands of couples had to postpone or cancel their planned wedding in 2020. The UK weddings industry is estimated to be worth £10 bn annually. The peak season for weddings begins in April and runs through to the end of September. The roadmap announced by the Government on 22 February 2021 envisaged the removal of all restrictions on significant life events, such as weddings, being removed not before 21 June. The Government now hopes to be able to do so not before 19 July.
- 3.3 When the Government in 2019 asked the Law Commission to undertake a fundamental review of the law governing how and where people legally marry in England and Wales, it also committed separately to accelerate work to enable civil wedding and civil partnership ceremonies to take place outdoors. The ongoing impact of covid-19 has presented significant challenges. It was not feasible to bring forward secondary legislation to enable civil weddings and civil partnerships to take place outdoors for the 2020 wedding season. The Ministry of Justice has therefore been working with the General Register Office to deliver that change as soon as practicable for the 2021 wedding season.
- 3.4 The Government has taken the view that it is important to introduce these changes now to give more options to couples and the weddings sector in how civil weddings and civil partnerships can be celebrated by allowing all aspects of the proceedings to take place outdoors. At the same time, this step will support the weddings sector by providing greater choice and potentially helping venues to meet demand for larger ceremonies. The change will benefit the almost 75% of all weddings in England and Wales that are non-religious, and which take place on approved premises, along with civil partnerships.
- 3.5 For all these reasons, the Government wishes to bring these changes into force at the earliest possible opportunity so that as many businesses and couples as possible can benefit from them during the remainder of the 2021 weddings season. That is why the Government has reluctantly decided to lay this instrument on 30 June to come into force on 1 July, breaching the 21-day period for parliamentary scrutiny. The changes made by this instrument are time limited. The Government will undertake a public consultation on these measures and intends to produce an Impact Assessment. A further instrument will be laid in Spring 2022.

Matters relevant to Standing Orders Nos. 83P and 83T of the Standing Orders of the House of Commons relating to Public Business (English Votes for English Laws)

- 3.6 As the instrument is subject to negative resolution procedure there are no matters relevant to Standing Orders Nos. 83P and 83T of the Standing Orders of the House of Commons relating to Public Business at this stage.

4. Extent and Territorial Application

- 4.1 The territorial extent of this instrument is England and Wales.
- 4.2 The territorial application of this instrument is England and Wales.

5. European Convention on Human Rights

- 5.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

6. Legislative Context

- 6.1 The 2005 Regulations provide for the detailed procedure by which the proprietor or trustees of a venue (“the applicant”) may apply to the “authority” (the local authority or registration authority for the area in which the premises are situated) for a venue to become approved premises for the purpose of solemnizing a marriage or forming a civil partnership. They provide for the revocation of approval in specified circumstances and in accordance with a specified procedure. Further provision is made for a review of any decision to refuse an approval or to attach to it conditions other than standard conditions.
- 6.2 Under the 2005 Regulations, premises which are not religious premises must meet conditions in Schedule 1 for approval and any other reasonable requirements which the authority considers appropriate, and on approval must comply with standard conditions specified in Schedule 2. Religious premises must meet the conditions in Schedule 1A for approval and any other reasonable requirements which the authority considers appropriate, and on approval must comply with standard conditions specified in Schedule 2A. The local authority may also apply additional conditions.

7. Policy background

What is being done and why?

The 2005 Regulations and the proposed changes

- 7.1 Prior to these amendments, the proceedings must take place within a permanent immovable structure (e.g., stately homes, hotels etc) or permanently moored boat or vessel, which is already approved for those proceedings.
- 7.2 The overall purpose of these amending regulations is to permit couples to be able to have a ceremony (proceedings) outdoors in the grounds of approved premises, as well as in the indoor structure subject to approval. Nearly three-quarters of all weddings take place on approved premises, such as hotels, golf-clubs and historic houses. Permitting a ceremony to take place in the outdoor parts of the premises which have already been authorised to conduct weddings and civil partnership formations is considered beneficial for couples and for venues, providing greater flexibility and choice.
- 7.3 At the same time, this step will support the marriage sector by providing greater choice and potentially helping venues to meet demand for larger ceremonies. The change will benefit the almost 75% of all weddings in England and Wales that are non-religious, and which take place on approved premises, along with civil partnerships. This instrument will also provide greater flexibility during the pandemic when there are important public health considerations to take into account.
- 7.4 It is proposed, therefore, that existing approved premises receive automatic deemed approval for any linked outdoor areas, subject to meeting conditions for the location at which the proceedings are to take place. For new premises who apply to become approved premises (or whose application is determined) after the regulations come into force, the use of both the built premises and the linked outdoor premises will also

be approved, subject to the built premises fulfilling the relevant criteria in Schedule 1 relating to the built premises, and any other reasonable requirements which the authority considers appropriate to ensure that the facilities provided at the premises are suitable. Proceedings held in linked outdoor areas must fulfil certain conditions to ensure that the dignity of proceedings is preserved and that they are accessible to the public.

- 7.5 This approach is intended to avoid any new administrative burden on existing approved premises venues and/or registration authorities. Built premises are defined as “a permanently immovable structure comprising at least a room, or any boat or other vessel which is permanently moored” and linked outdoor areas are defined as “any areas within the boundary of the land of which the built premises form part, which are not indoors and which may be used in common with the built premises”.
- 7.6 This approach is to preserve the dignity of the proceedings.
- 7.7 These are permissive changes; venues are not required to offer outdoor proceedings if they do not wish to do so. It is a matter for each individual venue to decide on, and to ensure that the requisite conditions are met.
- 7.8 When parliamentary time allows, the Government will legislate to enable religious ceremonies to be held in outdoor areas of religious premises.

Amendments to the 2005 Regulations

- 7.9 Regulation 3 of these Regulations makes amendments to the 2005 Regulations. Regulation 3(2) makes amendments to the certain definitions in the 2005 Regulations to allow for the approval of indoor parts of the premises together with the outdoor areas within the bounds of the same premises. The definition of “premises” is amended to include the “built premises” together with any “linked outdoor areas”.
- 7.10 Built premises are defined as “a permanently immovable structure comprising at least a room, or any boat or other vessel which is permanently moored” and linked outdoor areas are defined as “any areas within the boundary of the land of which the built premises form part, which are not indoors and which may be used in common with the built premises”. This is intended to capture outdoor locations within the bounds of the same property as the approved premises.
- 7.11 An area is indoors if it is a space which is enclosed, or substantially enclosed. Prior to the amendments made by these Regulations, the definition of premises comprised built premises only. A space will be enclosed for these purposes if it has a ceiling or roof and, except for doors, windows and passageways, is wholly enclosed either permanently or temporarily. A space will be semi-enclosed if it has a ceiling or roof but there is an opening in the walls or an aggregate area of openings in the walls, which is less than half of the area of the walls, including other structures that serve the purposes of walls and constitute the perimeter of the space.
- 7.12 Amendments are made to the definitions of “religious premises” and “shared buildings” to clarify that only the built premises must meet the defining criteria.
- 7.13 These changes have the following implications:
- an application for approval made under regulations 3 (application procedure: premises that are not religious premises), 3A (application procedure: religious premises) or 3B (application procedure: shared church or other buildings) of the 2005 Regulations (as the case may be) will be made in respect of both the

built premises and any linked outdoor area and the grant or refusal of an approval by an authority will be in respect of both the built premises and any linked outdoor areas;

- For the purposes of new applications for approvals or renewal, the applicant will need to provide a plan of the entire premises, indicating the boundaries of the linked outdoor areas and identifying any rooms within the built premises where proceedings are to take place;
- Where required, and for the purposes of applications for new approvals or renewals of religious premises, consent will need to be obtained for the entire premises, including the built premises and the linked outdoor areas.

Conditions for grant of approval

- 7.14 Regulation 3(3) makes an amendment to regulation 5 of the 2005 Regulations. The effect is that the condition for approval of religious premises that the premises must be a particular type of building only applies to the built premises.
- 7.15 Regulations 3(7) and 3(8) make amendments to Schedule 1 (requirements for the grant of approval of premises that are not religious premises) and Schedule 1A (requirements for the grant of approval of religious premises) respectively. The amendments preserve the current position that the standard requirements for grant of approval only apply to the built premises.

Conditions attached to approval

- 7.16 Regulation 3(4) makes amendments to regulation 6 of the 2005 Regulations. The amendments require that the conditions in new Schedule 2B (conditions to be attached to grants of approval of premises which are not religious premises relating to proceedings held in linked outdoor areas) and new Schedule 2C (conditions to be attached to grants of approval of religious premises relating to proceedings held in linked outdoor areas) are attached to approvals. The conditions in those new schedule (added by regulation 3(9) and 3(10) respectively) apply to proceedings held in linked outdoor areas only and include:
- The requirement to secure confirmation from the super intendent registrar, the registration authority or the authority (as the case may be) that in their opinion, having regard to the primary use, situation, construction an state of repair, the proceedings will take place in a seemly and dignified location within the linked outdoor areas;
 - A requirement for the location within the linked outdoor areas at which the proceedings take place to be identifiable by description;
 - Restrictions on the sale and consumption of food and drink during and before the proceedings; and
 - A requirement for a suitable notice to be displayed at the entrance to the premises and the built premises, stating that the premises have been approved for the proceedings, the description of the location within the linked outdoor areas at which the proceedings are to take place and directions to the location within the linked outdoor areas at which the proceedings are to take place.
- 7.17 Regulations 3(7) and 3(8) make amendments clarifying that the conditions in paragraphs 6 to 9 of Schedule 2 (conditions to be attached to grants of approval of

premises which are not religious premises) and paragraphs 10 to 13 of Schedule 2a (conditions to be attached to grants of approval of religious premises) only apply for the purposes of proceedings held in the built premises. They also make a technical clarification to Schedule 2.

- 7.18 In effect, no changes are made to the existing conditions applied in respect of built premises. Where a venue wishes to hold proceedings in linked outdoor areas, the responsible person must ensure that certain conditions are complied with.

Church of England faculty jurisdiction

- 7.19 Regulation 4 clarifies that in relation to a church or chapel of the Church of England, nothing in these Regulations will oust the faculty jurisdiction.

Expiry

- 7.20 Regulation 5 provides that the Regulations will expire at the end of 5 April 2022. On and after the date of expiry, any approval granted before the date of expiry will have effect as though it were granted under the 2005 Regulations without the amendments or modifications made by these Regulations. This means that approved premises will no longer be able to hold proceedings in the linked outdoor areas. However, the Government proposes to consult with a view to making a further instrument to take effect from 6 April 2022, subject to any revisions which may be necessary following consultation.

Transitional provisions

- 7.21 Regulation 6 contains transitional provision relating to applications and requests which have been submitted but not determined and for approvals which have already been granted.

Existing applications

- 7.22 Regulations 6(1) to (3) provide that applications and requests for reviews which have been submitted but not determined or withdrawn on the coming into force of the Regulations are not required to re-submit a plan of the entire premises including the boundary of the linked outdoor areas.
- 7.23 Regulations 6(4) to 6(8) make provision to ensure that on and after the Regulations come into force, existing approved premises may hold proceedings in the linked outdoor areas without the need to re-submit an application for approval or submit a revised plan of the entire premises including the boundary of the linked outdoor areas. Proceedings to be held in the linked outdoor areas are subject to certain conditions. The existing conditions will apply in respect of the built premises and proceedings held in the built premises.

8. European Union Withdrawal and Future Relationship

This instrument does not relate to withdrawal from the European Union / trigger the statement requirements under the European Union (Withdrawal) Act.

9. Consolidation

- 9.1 This is a time-limited instrument which will expire at the end of 5 April 2022. The Government will consult in Autumn 2021 with the intention of laying a further instrument in Spring 2022. The Government will consider consultation responses on the operation of these time-limited measures. In considering whether to make these

measures permanent (with such modifications as may be necessary) the Government will also consider whether, at that stage, it would be helpful to consolidate those measures with earlier amendments to the 2005 Regulations so that the regulations are easier for businesses and registration services to navigate and apply.

10. Consultation outcome

- 10.1 This is a time-limited SI that will expire at the end of 5 April 2022, so a consultation has not been conducted. A full consultation will be undertaken in Autumn 2021 with the intention of laying a further instrument in Spring 2022. Further, the Ministry of Justice has engaged with the National Panel for Registration and the General Register Office, to consider the technical and operational aspects of these temporary amending regulations.

11. Guidance

- 11.1 Existing guidance issued by the Registrar General under regulation 11 of the 2005 Regulations has been updated to include relevant information about the effect of these amending regulations. As the 2005 Regulations are a largely technical instrument the Registrar General's Guidance provides a more accessible and complete overview of the requirements for Approved Premises and for how civil marriage and civil partnership proceedings can legally take place.
- 11.2 The Registrar General's Guidance for the Approval of Premises as Venues for Civil Marriages and Civil Partnerships¹ (Approved Premises Guide) is available online at gov.uk and has been updated to reflect the measures introduced by this instrument. Additional guidance in the form of a Frequently Asked Questions (FAQ) document has been produced and is being circulated to support registrars, Approved Premises venues and their staff to understand and apply the revised regulations. Content on gov.uk has also been amended to provide guidance to couples who are considering having an outdoor ceremony on Approved Premises.

12. Impact

- 12.1 An Impact Assessment has not been prepared for this instrument as it makes a provision which is to have effect for a period of less than 12 months and is exempt from the Small Business, Enterprise and Employment Act 2015.
- 12.2 An Impact Assessment will be undertaken, alongside the public consultation in Autumn 2021, on further regulations which it is proposed to make in Spring 2022. Any identified significant impact on businesses, voluntary bodies or the public sector will be set out in that assessment which will accompany the further regulations which it is proposed to lay in Spring 2022.

13. Regulating small business

- 13.1 The legislation applies to activities that are undertaken by small businesses including small and micro businesses as well as by larger ones.
- 13.2 To minimise the impact of the requirements on small businesses (employing up to 50 people), the approach taken in the instrument is for this to be a permissive power which allows but does not require Approved Premises to undertake outdoor ceremonies if they do not wish to do so. In addition, to minimise burdens, use of the

¹ [Approved Premises Guide 8th edition \(publishing.service.gov.uk\)](https://publishing.service.gov.uk)

linked outdoor areas will automatically be deemed as being able to be used by existing approved premises. Existing Approved Premises will not be required to make an additional application to the local authority or local registration service, or to submit updated plans of the Approved Premises to include the outdoor spaces to be used. The basis for the final decision will be informed by a full Impact Assessment to be completed on the basis of public consultation.

14. Monitoring & review

- 14.1 This is a time-limited measure, which will cease to have effect on 5 April 2022. A consultation will be undertaken in Autumn 2021 on the operation of these provisions to inform a permanent statutory instrument to be introduced in Spring 2022. Given the intention to consult on the impact of these time limited proposals, it is not considered necessary to put in place separate monitoring and review arrangements.

15. Contact

- 15.1 Lissy Verrall at the Ministry of Justice. Email: lissy.verrall@justice.gov.uk. With any queries regarding this instrument
- 15.2 Neal Barcoe Deputy Director for Family Justice, at the Ministry of Justice can confirm that this Explanatory Memorandum meets the required standard.
- 15.3 Lord Wolfson of Tredegar, Minister for Family Justice at the Ministry of Justice can confirm that this Explanatory Memorandum meets the required standard.